

**IN THE 11th JUDICIAL CIRCUIT COURT ST. CHARLES COUNTY
STATE OF MISSOURI**

**JENNIFER MERRITT and
GARY MERRITT,**

Plaintiffs,

vs.

MISSOURI CVS PHARMACY, LLC,
Serve Registered Agent:
The Corporation Company
120 South Central Avenue
Clayton, Missouri 63105

Defendant.

Cause No.

Div. No.

JURY TRIAL DEMANDED

PETITION

COMES NOW Plaintiffs, by and through undersigned counsel, and for their Petition against Defendant, state as follows:

1. Plaintiffs are residents of St. Charles County, Missouri.
2. Upon information and belief, Defendant Missouri CVS Pharmacy, LLC is a Missouri limited liability company in good standing, licensed to do business in Missouri, and may be served through its registered agent The Corporation Company, 120 South Central Avenue, Clayton, Missouri 63105.
3. That at all relevant times herein, Missouri CVS Pharmacy, LLC owned, occupied and/or controlled the premises at 200 Jungermann Rd., St. Peters, MO 63376 (hereinafter "Premises") and operated a CVS Pharmacy, believed to be Store #10418, thereon.
4. That on or about April 18, 2021, Plaintiff Jennifer Merritt was on the Premises inside the CVS Pharmacy to purchase a cell phone charging cord and Gatorade.
5. That Plaintiff Jennifer Merritt was an invitee onto Defendant's Premises.

**EXHIBIT
B**

6. That while on Defendant's Premises, inside the CVS Pharmacy, Plaintiff was caused to trip and fall on an empty black pallet, about 6 inches in height, located on black carpet in a walkway for the Premises.

COUNT I – PREMISES LIABILITY – JENNIFER MERRIT v. DEFENDANT

7. Plaintiff Jennifer Merritt hereby alleges and incorporates by reference paragraphs 1 – 6 above as if fully set forth herein.

8. That Defendant had a duty to exercise ordinary care to maintain the premises in a reasonably safe condition free from dangerous conditions and owed a duty to Plaintiff Jennifer Merritt to warn of the existence of any dangerous condition.

9. That the empty black pallet constituted a dangerous and hazardous conditions on the Premises in that it presented an unreasonable risk of injury to persons walking thereon, for at least the following reasons:

- a. The black pallet was inconspicuous on the black floor;
- b. The black pallet was blocking an area of the Premises where invitees, such as Plaintiff Jennifer Merritt, would be expected to walk; and/or
- c. The black pallet was of a height that increased the likelihood an invitee, such as Plaintiff Jennifer Merritt, would trip on it.

10. That Defendants knew or in the exercise of ordinary care should have known of the existence of the dangerous and hazardous condition on the Premises and that the Premises were not reasonably safe for persons using the same, for the following reasons:

- a. The black pallet was emptied of merchandise by an employee of Defendant at least one day before Plaintiff was caused to trip on it but it was allowed to remain on the floor of the Premises;
- b. The amount of time that the pallet was permitted to remain on the floor;
- c. Employees of Defendant saw the pallet on the floor before Plaintiff fell; and/or

d. Employees of Defendant were notified of the pallet before Plaintiff fell.

11. That Defendant, by and through its employees, was negligent and careless in the following respects:

- a. Failing to design and put in place a safety program that would have prevented this fall and similar falls to other customers;
- b. Failing to implement a safety program that would have prevented this and similar falls;
- c. Failing to enforce through training and testing a safety program that would have prevented this and similar falls;
- d. Failing to track the effectiveness of its safety program by choosing not to track employee and customer injuries and fall incidences, both injury and non-injury incidences, to determine if changes were required to better protect invitees and customers through training, testing and prioritizing for better customer safety;
- e. emphasizing and prioritizing the training of new employees in the areas of theft prevention, extending credit to customers and avoidance of lawsuits against the Defendant rather than prioritize customer safety training for its new employees;
- f. Failing to remove the pallet from the floor before Plaintiff fell;
- g. Failing to warn Plaintiff of the pallet on the floor; and/or
- h. Failing to barricade the pallet on the floor.

12. That as a direct and proximate result of the aforesaid negligence of Defendant, Plaintiff Jennifer Merritt was caused to suffer injury to her left leg, left ankle, left foot and right ankle, which required emergency medical treatment that included surgery.

13. That Plaintiff Jennifer Merritt's injuries are permanent, progressive, painful and disabling.

14. That Plaintiff Jennifer Merritt has incurred medical expenses in excess of Ten Thousand Dollars (\$10,000.00) to the time of the filing of this Petition and will incur further medical expenses in the future.

15. That as a direct and proximate result of the aforesaid negligence of Defendant, Plaintiff Jennifer Merritt was caused to miss time from work and suffer lost income in excess of One Thousand Dollars (\$1,000.00) to the time of the filing of this Petition and will incur further lost income and a diminished earning capacity in the future.

WHEREFORE, Plaintiff Jennifer Merritt respectfully prays that this Honorable Court enter a judgment against the Defendant in an amount in excess of \$25,000.00 plus the costs of this action, all interest permitted by law, and any other relief this Court deems just and proper under the circumstances.

COUNT II – LOSS OF CONSORTIUM – GARY MERRIT v. DEFENDANT

16. Plaintiff Gary Merritt hereby alleges and incorporates by reference paragraphs 1 – 15 above as if fully set forth herein.

17. Plaintiff Gary Merritt is and was the lawful husband of Jennifer Merritt at all times mentioned herein.

18. That as a direct and proximate result of the carelessness and negligence of Defendant, Plaintiff Gary Merritt was and is deprived of Jennifer Merritt's society, companionship, support, comfort and consortium, from the time of the injury, and the time remaining period of their marriage, and such loss is permanent.

WHEREFORE, Plaintiff Gary Merritt respectfully prays that this Honorable Court enter a judgment against the Defendant in an amount in excess of \$25,000.00 plus the costs of this action, all interest permitted by law, and any other relief this Court deems just and proper under the circumstances.

Respectfully Submitted,

THE SUMNER LAW GROUP, LLC

By /s/Andrew S. Martin

Brent A. Sumner, #59460

Andrew S. Martin, #62657

John J. Greffet, #62106

7777 Bonhomme Avenue, Suite 2100

Clayton, Missouri 63105

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brent@sumnerlawgroup.com

Attorneys for Plaintiff



IN THE 11TH JUDICIAL CIRCUIT, ST. CHARLES COUNTY, MISSOURI

Judge or Division: JON A. CUNNINGHAM	Case Number: 2111-CC00533	(Date File Stamp)
Plaintiff/Petitioner: JENNIFFER MERRITT	Plaintiff's/Petitioner's Attorney/Address BRENT ALAN SUMNER THE SUMMER LAW GROUP LLC 7777 BONHOMME AVE - STE 2100 CLAYTON, MO 63105	
Defendant/Respondent: MISSOURI CVS PHARMACY, LLC	Court Address: 300 N 2nd STREET SAINT CHARLES, MO 63301	
Nature of Suit: CC Pers Injury-Other		

Summons in Civil Case

The State of Missouri to: MISSOURI CVS PHARMACY, LLC

Alias:

SERVE REGISTERED AGENT:
THE CORPORATION COMPANY
120 SOUTH CENTRAL AVENUE
CLAYTON, MO 63105

COURT SEAL OF



ST. CHARLES COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

6/25/2021

Date

/S/ Cheryl Crowder

Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: _____ (name) _____ (title).
- ☐ other: _____.

Served at _____ (address)
in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$._____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



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Judge or Division: JON A. CUNNINGHAM	Case Number: 2111-CC00533
Plaintiff/Petitioner: JENNIFFER MERRITT	Plaintiff's/Petitioner's Attorney/Address BRENT ALAN SUMNER THE SUMMER LAW GROUP LLC 7777 BONHOMME AVE - STE 2100 CLAYTON, MO 63105
Defendant/Respondent: MISSOURI CVS PHARMACY, LLC	Court Address: 300 N 2nd STREET SAINT CHARLES, MO 63301
Nature of Suit: CC Pers Injury-Other	

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: ~~MISSOURI CVS PHARMACY, LLC~~
30 CTCOR W

SERVE REGISTERED AGENT:
THE CORPORATION COMPANY
120 SOUTH CENTRAL AVENUE
CLAYTON, MO 63105
COURT SEAL OF


ST. CHARLES COUNTY

6/25/2021 Date /S/ Cheryl Crowder Clerk

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☒ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: **LCW - B. LOVE** (name) **INTAKE SPECIALIST** (title)

☐ other: _____

Served at **THE CORPORATION CO.** (address)
in **St. Louis County** (County/City of St. Louis), MO, on **JUL 23 2021** (date) at **9 AM** (time).

Nathan Gentry Printed Name of Sheriff or Server **Nathan Gentry** Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:
Subscribed and sworn to before me on _____ (date).
My commission expires: _____ Date _____ Notary Public

Sheriff's Fees, if applicable

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	\$ 10.00
Supplemental Surcharge	\$ _____
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ _____

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120 SOUTH CENTRAL AVENUE
CLAYTON, MO 63105
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ST. CHARLES COUNTY

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Nathan Gentry Printed Name of Sheriff or Server **Nathan Gentry** Signature of Sheriff or Server

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Sheriff's Fees, if applicable

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Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
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